Duquesne Light

411 Seventh Avenue
16th Floor
Pittsburgh, PA 15219

Tel 412-393-1541
Fax 412-393-1418
gjack@duqlight.com

Gary A. Jack
Assistant General Counsel

January 17, 2012

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JAN 17 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VIA OVERNIGHT MAIL

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Re: Investigation of Pennsylvania's Retail Electricity Market: Intermediate Work Plan Docket No. I-2011-2237952

Dear Secretary Chiavetta:

Enclosed for filing are an original and five (5) copies of the Comments of Duquesne Light Company to the Tentative Order entered December 16, 2011 in the above-referenced case.

Sincerely yours,

Gary A. Jack
Assistant General Counsel

Enclosure

c: Office of Competitive Market Oversight

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JAN 17 2012

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation of Pennsylvania's	)	
Retail Electricity Market:	)	**Docket No. I-2011-2237952**
Intermediate Work Plan	)	

COMMENTS OF DUQUESNE LIGHT

Duquesne Light Company ("DLC") submits the following comments in response to the Pennsylvania Public Utility Commission's ("Commission") Tentative Order entered December 16, 2011, at Docket No. I-2011-2237952, relating to the retail market investigation proceeding. DLC appreciates this opportunity to comment on the six primary topics that were listed in the Commission's Order. DLC can offer a unique and informed perspective on the issues because of its extensive experience with post-transition period default service. DLC completed the transition period for most customers in 2002 and, since that time, has successfully implemented five default service programs and has achieved relatively high levels of customer shopping in its service area as compared to other electric utilities in Pennsylvania and elsewhere in the United States.[1]

Specific issues from the Tentative Order are addressed below.

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[1] As of October 2011, the overall percentage of retail load (based on billed kWh) that is shopping in DLC's service area has climbed to 71%. DLC has one of the top ten electric retail access programs in the United States and is currently 9th in the nation in terms of percentage of retail load shopping.

I. COMMENTS

A. Overview

Now that the entire state is in a post-transition period, it is an opportune time for the Commission to review recommendations to improve the competitive market. Most of the Commonwealth has had only limited experience with post-transition period default service. Other Pennsylvania service territories have only recently begun to implement post-transition default service. It is important that the Commission recognize the different stages of retail market development among Pennsylvania EDCs and continue to not preclude experimentation and flexibility, nor prescribe approaches that could jeopardize the accomplishments that have already been achieved, particularly in DLC's market given the current level of shopping.

At the outset, DLC notes that it is generally in agreement with the vast majority of the recommendations in the Tentative Order. However, there are some recommendations which DLC believes should be considered or allow greater flexibility. For example:

1. DLC believes that the timing of the tri-fold mailing should be moved to the end of 2012 or early 2013.
2. DLC does not recommend the elimination of the 10-day confirmation but can support a reduction of the period to 4-5 days.
3. DLC believes the customer referral program should apply only to new and moving customers at this time.
4. DLC also believes that there needs to be coordination among new retail market initiatives to avoid customer confusion. As contemplated, it appears that the new/moving customer referral program, the standard offer customer referral program, and the retail opt-in auction could all be taking place at the same time. DLC suggests that the standard offer customer referral program should be offered only after the one time opt-in auction is completed.
5. DLC recommends that the percentage customer participation cap on customers electing to be served by an EGS via the retail opt-in auction should be no more than 50% of the EDC's residential customers less the percentage of residential customers already shopping in the EDCs service area.

6. DLC recommends that the guaranteed savings initial period for the retail opt-in program be 12 months in length and that EGSs thereafter be required to offer a product with price changes no more frequently than quarterly (for one year) and clarify the customer options upon the expiration of the retail opt-in auction program or the standard offer customer referral program so customers are aware that they will remain with the EGS absent any action, or they can affirmatively elect to remain with the EGS under a new contract, switch to another EGS, or return to the EDC's default service rate.

These and other points are described in greater detail in the DLC's comments below.

B. Consumer Education-Statewide Campaign

Since DLC was one of the first EDCs in the state to eliminate its Competitive Transition Charges in 2002 and transition from rate caps to competitive market prices, DLC was in a unique position compared with other Pennsylvania utilities. As part of this process, DLC was one of the first in the state to launch a Consumer Education campaign during the Electric Choice initiative of the late 1990s. DLC's current Consumer Education Plan, implemented in 2008, focuses on shopping and energy conservation. And because of these efforts, 91% of our residential customers know they have the right to choose their electric supplier, as shown in a recent customer survey. Many have exercised that right with the shopping levels having progressively increased over the years – especially in the past year – as many new EGS marketers enter the DLC service territory. Currently, there are approximately 181,000 DLC customers receiving their generation from the 43 licensed EGSs in our service territory.

We fully support the plan of mailing customers a PAPowerSwitch.com postcard from the Commission as discussed in the Retail Market meetings. We also support a standard agreed-upon letter sent to customers by each EDC about shopping. We feel it would be prudent to review the results of these two mailings before issuing any additional customer education mailings. In addition, DLC has already agreed in its POLR V settlement approved by the Commission, to circulate information on Customer Choice on a semi-annual basis, including promoting, via bill inserts/Service Line, the links on its website and any telephonic means for a customer to solicit information about customer choice and retail offers. Accordingly, DLC does not support the proposed additional requirement to mail a tri-fold flyer in May 2012 but would support it being mailed at a later time. In our view, the tri-fold flyer is basically the Commission postcard with just a little bit of additional information added, such as Frequently Asked Questions and an explanation of electricity. Since the tri-fold mailing is similar to the PUC postcard, Duquesne would recommend it be mailed last, after the Company letter, at or around the end of 2012 or early 2013. Second, the Company letter tends to support the PUC postcard so we believe the company letter should be the next (second) mailing after the PUC postcard. Third, sending a PUC postcard in February and a trifold mailer in just three months thereafter (May 2012) is too soon. DLC does not see the need or substantial value in reissuing basically very similar information and resending such similar information to the same customers three months after the initial communication from the Commission. Accordingly, DLC recommends the Commission allow enough flexibility in the rules so as not to require DLC to send the tri-fold communication proposal at this time in lieu of all the other communications that DLC is making, but rather send it last at the end of 2012 or early 2013. This would assure customers are obtaining ongoing education for at least the next year.

C. Accelerated Switching Timeframes

DLC is willing to support process improvements for accelerating the supplier switching timeframe but believes that the customer confirmation letter and rescind process should not be eliminated. We believe the confirmation letter is an important consumer protection. Currently, 11% of the customers selecting an EGS in DLC's service territory rescind their enrollment within that 10-day confirmation period. With DLC's high level of residential shopping activity, almost 100 customers every week last year utilized the opportunity to rescind their enrollment within the 10-day confirmation period. Customers made this decision for a variety of reasons. Our experience is that many of the transfers are a result of telemarketing or door-to-door sales for which customers later reconsider their decisions, were misunderstood as to their intentions to switch, or may have alleged that they were being switched to an EGS without their authorization. Customers should have the right and opportunity to prevent a switch prior to the transfer of service, and that customer protection should be preserved. It is reasonable to expect higher levels of customer dissatisfaction if 11% of customers electing an EGS in DLC's service area, who currently are notified by a confirmation letter and then choose to rescind their enrollment for whatever reason, are unable to do so as a result of the proposed total elimination of the 10-day confirmation period. At the very least, it is clear that customers are utilizing the time period to rescind or change their minds and that is serving a legitimate purpose to effectuate customer wishes. We believe elimination of this alternative could actually hinder long-term acceptance of customer choice options. Even if the Commission were to shorten the 10-day confirmation period, which DLC can agree to, DLC is concerned that due to the mailing time of the confirmation letter, customers will have little time to act and will need to act very quickly to prevent an unwanted switch from occurring.

DLC believes that the current timeframe to switch customers is not hurting competition in its service area. Residential shopping has increased from 20% of load as of December 2010 to over 33% of load as of October 2011, with almost 50,000 additional residential customers choosing an alternative supplier this year. DLC agrees that the timeframe should be as short as possible, but it should not be at the expense of depriving customers of an option to prevent undesired switches from occurring, as would happen if the Commission's proposal is adopted. If the Commission still believes that reducing the switching timeframe is needed or beneficial after review of the submitted Comments from interested parties, DLC can accept a reduction in the 10-day confirmation period to 4 or 5 days.

D. Customer Referral Program

The third subject of investigation in the Tentative Order concerns customer referral programs. Various stakeholders within the Investigation have been looking into designing customer referral programs. As the Commission notes, these programs can vary extensively in form and structure.[2] The first type of program that the Commission identifies, commonly referred to as the "new/moving customer program," envisions that any time a new customer or existing customer moving within a service territory contacts an EDC's call center, that customer will be advised of competitive EGS alternatives and market information. Depending on timing and meter-read dates, the customer may have the option to be immediately transferred to an EGS for enrollment, with the potential that the customer may receive service from the selected EGS without the need to enroll in the EDC default service program for any period of time. The second type of program is the

[2] Tentative Order, at 9.

standard offer customer referral program. DLC provides comments on these two programs separately below.

1. New/Moving Customer Referral Program

The Commission's Tentative Order addresses and seeks comments on several issues related to the new/moving customer referral program.

First, the Commission states that it believes that a new/moving customer referral program is possible to implement in 2012, but also notes that while most commenters favor this type of program, there was a lack of agreement among the parties regarding the types of calls which would be appropriate for customer referral scripts, the call center logistics (*i.e.*, use of existing EDC call centers, outsourcing the function, or utilizing one statewide call center with EDC-specific information), cost recovery and the actual enrollment process if the customer decides to act at the time of the call.[3]

DLC believes that the timing of the implementation of a new/moving customer referral program is to some extent dependent on the timing of the resolution of the issues that the Commission has identified in its Tentative Order. Further, DLC notes that not all issues related to the program need to be addressed before implementation can begin, as some forms of customer referral can be implemented more quickly than others. In fact, in its POLR V Settlement, DLC agreed to a number of initiatives to facilitate customer shopping and to educate customers about retail choice, including the following customer referral mechanisms:

- DLC agreed to provide customers with access to the OCA residential shopping guide via a direct link to the OCA's website.

[3] Tentative Order, at 17.

- DLC agreed to provide customers with access to the Commission's new comprehensive website, once it exists, via a direct link.

- DLC agreed to circulate information on Customer Choice on a semi-annual basis, including promoting, via bill inserts/Service Line, the links on its website and any telephonic means for a customer to solicit information about customer choice and retail offers.

- DLC agreed that in the new customer packet and any other materials relating to new service, DLC would advise new customers upon service initiation of the opportunity to obtain supply from an EGS.[4]

- DLC also agreed to a collaborative to develop a process to inform customers of retail offers posted on the above-referenced web sites when customers contact the DLC customer service center or when customers initiate new service or move service to a new location.

- DLC also agreed to circulate information on the competition enhancement programs and posted retail offers on at least a semi-annual basis.[5]

These retail initiatives in DLC's service area, many of which began being implemented in 2011, are designed to refer customers to competitive EGS offers and promote retail shopping. DLC plans to work with parties to build on and improve these existing customer referral programs in its upcoming default service plan.

[4] The new customer packet and website area discussing initiation of new service, or transfer of service, would also contain a link to the OCA shopping guide and the new statewide website.

[5] Settlement Agreement, Petition of DLC for Approval of Default Service Plan for the Period January 1, 2011 through May 31, 2013, at 8-10.

With respect to the types of calls which would be appropriate for customer referral scripts, DLC strongly recommends that the customer referral program should not interfere with customer service.[6] Customer satisfaction should be paramount so that additional educational efforts are made at the appropriate times and not when customers are calling for issues such as outages, bill payment arrangements, and quality of service issues. DLC recommends that the new/moving customer referral program should apply only to new and moving customers.

With respect to call center logistics (*i.e.*, use of existing EDC call centers, outsourcing the function, or utilizing one statewide call center with EDC-specific information), DLC would prefer utilizing one statewide call center with EDC-specific information (except for possibly CAP customers).[7] A statewide call center would involve a neutral third party and would be responsible for disseminating information to customers about their supply alternatives in an objective manner that is more readily observable by the Commission. This would ensure that there is less impact on DLC's call center and DLC's ability to satisfy certain regulatory commitments to achieve customer service metrics.[8] A statewide call center that handles customer referral calls may provide some

[6] In the Tentative Order, the Commission states that it strongly agrees with the OCA that the call center management of a "New/Moving Customer" Referral Program should not result in diminished customer service. (Tentative Order, at 18).

[7] It also is important to be mindful that different service territories in Pennsylvania have differing levels of customer understanding of competition and different levels of current shopping. They also have different CAP programs that may make it more effective to keep CAP customers from being sent to a statewide call center.

[8] Duquesne committed to specific call center metrics as part of the recent sale of one of its owners, Duet, to the Government of Singapore/Epsom, Docket No. A-2010-2213369 et al. Those metrics would be difficult, if not impossible, to meet if a customer referral program is implemented utilizing in-house employees.

economies-of-scale and lower administrative costs.[9] It also could facilitate Commission oversight of call center scripts and make it easier to separate costs associated with the customer referral program call center activities. Absent the establishment of a statewide call center, DLC is also considering the feasibility of handing customer referral calls using an interactive voice response ("IVR") system, the feasibility of outsourcing customer referral calls to a third party, and/or utilizing its own call center manpower.

With respect to cost recovery of the customer referral program costs, DLC believes that EGSs are the primary beneficiary of customer referral programs, in the form of lower customer acquisition costs, and therefore should be responsible for the associated implementation and ongoing costs of customer referral programs. This treatment of cost recovery is similar to that used to recover the costs of the innovative purchase of receivables ("POR") program implemented in DLC's service area during POLR IV and continued in POLR V.[10] One possible approach would be to recover the associated costs of the customer referral program in the POR discount to EGSs serving customers in the applicable rate classes, or for those EGSs not enrolled in POR, a similar type charge.

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[9] The program design needs to consider potential impacts on the EDC call center. A customer referral program could impose additional requirements for customer service representatives. It also could result in incremental service time to address customer needs and impact EDC call center metrics and performance levels.

[10] In New York, the Public Service Commission found in October 2008 that the retail market was sufficiently mature, resulting in a determination that ratepayers should no longer incur incremental costs related to promotional programs, such as customer referral programs. Rather, the New York Public Service Commission ordered that all incremental costs should be incurred by EGSs. By comparison, the retail market in DLC's service area is also mature in terms of customer shopping and customer awareness.

DLC addresses in its comments below the actual enrollment process if the customer decides to act at the time of the call.

First, the Commission believes that the new/moving customer referral program should be open to both residential and small business/commercial customers, and also invites comments on whether the program should be eligible to CAP customers.[11] Per the recommendation in the Tentative Order, DLC is willing to make the new/moving customer referral program open to both residential and small C&I customers (with peak demands of less than 25 kW) consistent with the definition of the smallest general service business rate class as set forth in DLC's tariff. DLC is also willing to allow CAP customers to participate in the new/moving customer referral program but has billing limitations until a new information system is in place next year.

Second, the Commission suggests that the "new/moving customer" referral program can be applied to any current default service customer who contacts an EDC call center for any reason, other than emergencies, such as service outages or termination of service issues.[12] DLC believes that it is both incorrect and premature to conclude that any current default service customer who contacts an EDC call center should be included in the new/moving customer referral program and believes that the Commission should reserve judgment on this recommendation at this time. On its face, this would greatly expand the program making the "new/moving customer" name a misnomer. DLC believes that the customer referral program will be most successful when the referral is a logical portion of the contact. It is reasonable to refer a customer who is establishing

[11] Tentative Order, at 18.

[12] Tentative Order, at 17.

service for the first time or moving from one premise to another within our service territory.

As noted in its comments below, DLC is also concerned about the potential overlap of the proposed new/moving customer referral program, the standard offer customer referral program, and the retail opt-in auction program – all of which will require explanation and may involve call center functions. Prior to the development of the call center script, the various retail programs being contemplated by the Commission, and the associated costs of these programs, DLC does not believe it is appropriate to commit to include all existing default service customers in the "new/moving customer" referral program. The resolution of this issue will likely depend on identification of customer needs (and call center scripts), the associated impact on program costs, and the willingness of EGSs to fund such an initiative once the requirements have been better identified.

Third, the Commission believes that, if a customer is prepared to exercise his or her option to select an EGS at the time of the call, there should be the opportunity for a "hot transfer" from the call center to the EGS to facilitate the customer's choice.[13,14] Should the caller know the EGS it wishes to contact, that hot transfer may be possible and Duquesne would consider transferring a customer to the EGS's call center.

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[13] Current Commission regulations at 52 Pa. Code §§ 57.172 and 57.173 (relating to customer contacts with EDCs and EGSs) require the enrollment of a customer to be initiated by the selected EGS. As a result, the current enrollment process and the EDC systems which support it generally require that the selected EGS initiate the enrollment process. (Tentative Order, at 18).

[14] The Tentative Order also presents a proposal to streamline the customer enrollment process so as to enable switching as quickly as possible. See DLC's comments in the accelerated switching section.

However, we recommend that it just be a transfer and not one where the DLC customer service representative (CSR) waits on the line with the customer until the EGS call center answers the call. But absent such direction, the call should be routed to the independent call center handling these calls.

Fourth, the Commission states in the Tentative Order that it is reluctant to place EDCs in the position of providing information regarding existing EGS product offerings during a customer referral call. Rather, the Commission states that the better alternative is for customer referral scripts to refer customers to PAPowerSwitch.com, where current offers are displayed.[15] DLC agrees with the Tentative Order with respect to this issue.

Fifth, the Commission states that a key element of this program is to highlight competitive alternatives. As scripts are developed to implement this program, the Commission suggests that the competitive market alternatives take a prominent place in the discussion so that default service is truly styled as an option, but that there are many other options for retail electric customers in Pennsylvania.[16] As mentioned above, DLC is willing to refer customers to PAPowerSwitch.com and would seek to ensure that any call center script does not favor EDC default service over other EGS supply options. At the same time, as suggested by the Commission, DLC also wants to avoid being placed in the position of having to describe or characterize EGS offers in any manner.

2. Standard Offer Customer Referral Program

According to the Tentative Order, the standard offer customer referral program outlined by the Commission is more robust than the new/moving customer referral

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[15] Tentative Order, at 19.

[16] Tentative Order, at 19.

program.[17] This type of program involves voluntary participation by EGSs who agree to provide a standard offer to participating customers. The standard offer typically provides for a percentage off an EDC's PTC for a stated period of time. In the Tentative Order, the Commission clarifies the requirement in the Default Service Plans Order which states that EDCs should include a standard offer customer referral type program in their upcoming default service plans.[18] The Tentative Order provides several broad guidelines for this type of program. To the extent that an EDC chooses to deviate from these guidelines, the Commission expects the differences to be justified by operational constraints, supported by evidence produced during the default service plan proceedings.

The Commission provides the following guidelines in its Tentative Order:[19]

1. The standard offer customer referral program should be voluntary for customers (*i.e.*, "opt-in"), as well as participating EGSs.
2. The standard offer should be comprised of a percentage reduction from the effective EDC PTC and should be provided for a minimum of three months.
3. The standard offer and its term should be uniform within an EDC's service territory.
4. Customers may be assigned to an EGS of their choice or may choose random assignment.
5. The terms and conditions of the standard offer must be presented to customers before they decide to enter the program.
6. The standard offer customer referral program should be presented during customer contacts to the call centers, other than calls for emergencies, terminations and the like.
7. The eligible customer base for the standard offer customer referral program is recommended to be residential customers on default service at the time of the contact.[20]

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[17] Tentative Order, at 20.

[18] Tentative Order, at 20.

[19] Tentative Order, at 20-21.

[20] The Commission anticipates that issues involving CAP customer participation will be addressed in the individual default service plan proceedings.

8. Once a customer enrolls in the standard offer customer referral program, the enrollment will be forwarded to the EGS for EDI processing.

9. At the time of the first contact between the EGS and the customer, the customer will be reminded of the terms and conditions of the standard offer, including the date by which the customer must take action to exercise his or her options at the end of the term.

10. There will be no termination penalty or fee imposed at any time during the effective period of the standard offer. All existing customer notification requirements apply, including notices and the timing of those notices relating to proposed changes in the terms and conditions of the EGS-customer relationship.

11. At the conclusion of the standard offer period, absent affirmative customer action to enter into a new contract with the EGS, the customer's enrollment with a competitive EGS or the customer's return to default service, it is expected that the customer would remain with the EGS on a month-to-month basis without the imposition of early termination fees.

12. The Commission expects that detailed implementation/logistical elements will be determined during the default service plan proceeding for each EDC.

DLC generally agrees with most of the guidelines outlined in the Tentative Order that are listed above, but notes that the Company is still in the process of developing its customer referral programs for its upcoming default service filing. The Company is, however, able to provide the following comments on the proposed guidelines at this time. DLC believes the standard offer customer referral program should provide assurances that there are not temporary "bait-and-switch" offers that could result in high rates and customer dissatisfaction with retail choice. Adequate customer safeguards need to be in place to make certain that customers are informed and affirmatively agree to any changes in rates that are not subject to Commission oversight. The program should guarantee savings to participating customers in the form of a percentage discount off of the default service supply rate for a reasonable period of time. DLC believes this period should exceed three months as permitted under the Commission's recommendations, and currently envisions a referral program that offers customers guaranteed savings over a 12-

month period. DLC believes this will increase enrollment, help ensure that customers are not harmed financially as a result of their participation, and help increase overall customer satisfaction with the program. All customers should be free to switch from the referral program at any time.

Further, the process in which a customer is referred to a particular EGS should be simple to implement and simple for customers to understand. DLC is concerned about potential customer confusion as a customer decides to participate in the a) new/moving customer referral program, b) the standard offer customer referral program, and c) the retail opt-in auction, especially since there may be a period of time when customers could participate in any one of the three retail initiatives. This will require careful coordination among the competing alternatives and require a clear and consistent message to the customer. DLC recommends that the three programs not be held at the same time to avoid at least some of the confusion that will occur with having three programs. Otherwise, customer confusion and resource allocation will be concerns.

The Commission's guidelines are silent regarding how the standard offer price is to be determined. One method would be to simply prescribe a discount off the effective EDC PTC. If the prescribed discount is set too high, then few EGSs would be willing to participate in the program. If the prescribed discount is set too low, then potential customer savings will be "left on the table" and few customers would be willing to participate in the program. Another alternative would be to determine the discount based on a bidding process. The structure of the bidding process could be done in one of several ways, but the process would result in one or more EGSs being selected as the "winning" suppliers to which customers would be referred under the standard offer referral program. The bidding process could be done periodically, allowing for different EGSs to be the winning suppliers throughout any given year. This would also reduce antitrust concerns for a price to be fixed for a competitive service for entities (EGSs) for which the PUC does not regulate their pricing or offerings.

In addition, DLC is concerned about the treatment of customers at the conclusion of the standard offer period, and the potential for customers that do not take any action to be placed on an unregulated service that could exceed the EDC default service rate or be quite volatile. See DLC's comments below in the "Customer Options Upon Program Expiration" in the Retail Opt-In Auction Program section.

Finally, many of the issues applicable to the new/moving customer referral program that were identified above (*e.g.*, types of calls which would be appropriate for customer referral scripts, the call center logistics, cost recovery and the actual enrollment process) would also apply to the standard offer customer referral program. DLC believes that only new customers and those that are moving and customers that specifically inquire about alternative suppliers should be included at this point in time. Calls for other items such as outages, payment troubles, universal services, and other matters should be addressed without referrals to other matters.

DLC looks forward to working with stakeholders to discuss ways in which it can improve upon the customer referral programs already in place or under development in DLC's service area.

E. Retail Opt-In Auction Program

The fourth subject of investigation in the Tentative Order concerns a retail opt-in auction program. In its Tentative Order dated October 14, 2011 ("Initial Tentative

Order"), the Commission noted that a number of parties taking part in the Retail Market Investigation, including EGSs, EDCs, and the OCA, have been working to format a proposed retail opt-in auction. In a retail opt-in auction, an EGS bids to provide competitive retail service to a group of customers within a specific EDC territory who have affirmatively decided to have their accounts included in this group. According to the Commission, Opt-in auctions pose a possible safe and easy mechanism to increase customer participation in the competitive market, and to decrease EGS customer acquisition costs.[21] A subgroup was developed within the Retail Market Investigation ("RMI"), consisting of EGS, EDC and consumer advocacy representatives actively participating, while other interested stakeholders monitored its activities. The subgroup submitted an initial report on September 30, 2011, to the entire RMI stakeholder group which was followed by a final report on November 30, 2011. In the Default Service Plans Order, the Commission requires that EDCs incorporate an opt-in auction program in their next default service plan filings.[22] The Tentative Order addresses the details involved in setting up and implementing opt-in auctions, and offers specific proposals upon which it invites parties to comment.

1. Customer Eligibility

In the Tentative Order, the Commission states that it believes that opt-in auctions should be limited to the residential customer class.[23] The Commission finds that shopping levels among residential customers are less than those for commercial

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[21] Tentative Order, at 22.

[22] Default Service Plans Order, at 6.

[23] Tentative Order, at 25.

customers and that small C&I customers should not be included in the opt-in auction due to the lack of a standard "small commercial" definition across the state. The Commission also finds that, given that most, if not all, small C&I consumers are also residential consumers at their homes, they will have the opportunity to participate in opt-in auction pools as residential consumers. This may provide an experience to shop that may encourage them to also shop for the generation supply for their business.

Within the residential rate class, the Commission suggests that the opt-in auction program be targeted to non-shopping, default service customers, with the marketing efforts, notifications and consumer education targeted towards that audience. However, the Commission notes that, as a practical matter, shopping customers will become aware of these opt-in auction pools and may want to participate. In order to avoid the impression of discrimination and to avoid the return of shopping customers to default service to participate, the Commission proposes that all customers be eligible to participate in these programs.[24]

DLC agrees with the findings in the Commission's Tentative Order related to customer eligibility. The retail opt-in program should be for residential customers only and target marketing efforts towards non-shopping residential customers who are less likely to shop. The purpose of the program should be to encourage residential customers on default service to participate in the competitive market in an effort to further facilitate customers gaining experience obtaining competitive service from EGSs. DLC also agrees with the Commission, however, that as a practical matter, there should not be any discrimination between shopping and non-shopping customers in terms of eligibility in

[24] Tentative Order, at 26.

the program. DLC believes that opt-in auctions should be applied universally to all residential customers without discrimination so that all customers, both non-shopping and shopping customers[25] could participate.[26] DLC also intends to allow CAP customers to participate in the retail opt-in auction process so that they can receive guaranteed savings as well.[27]

2. EGS and EDC Participation

In the Tentative Order, the Commission finds that EGS participation should be voluntary and all appropriately-licensed EGSs should be eligible to participate.[28] DLC agrees with the Commission's finding in this area.

3. Pilot Programs

In its Tentative Order, the Commission questions the usefulness and appropriateness of pilot programs, especially in 2012. The Commission states that even a small-scale program would involve considerable effort by the EDCs and EGSs and it is questionable whether this could be accomplished in time for a 2012 pilot, especially since the time to litigate this matter is currently unknown. Similarly, it is not evident whether the Commission would have time to incorporate any "lessons learned" into the planning of the full-scale opt-in auctions. The Commission also believes it is inappropriate to risk

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[25] Shopping customers would be subject to the terms and conditions of their EGS contracts.

[26] The known exceptions would be net metering and Time-of-Use customers.

[27] There are billing limitations until DLC's new billing system is in place and operating in 2013.

[28] Tentative Order, at 27.

tampering with current default supply contracts. For these reasons, the Commission proposes the exclusion of opt-in auction pilot programs.[29]

DLC agrees with the Commission's Tentative Order regarding pilot programs and plans to include a retail opt-in auction proposal in its upcoming default service plan for implementation in the Company's POLR VI plan, which begins June 1, 2013.

4. Program Length/Term

In its Tentative Order, the Commission proposes that the program term be no shorter than six months and no longer than 12 months. The Commission also recommends that customers should be able to exit the program at any time; but that such customers shall not be permitted back into the program once they return to default service.[30]

DLC agrees with the proposed term in the Tentative Order, and while DLC has not yet fully formulated a specific retail auction proposal, it is inclined to support a one-year program length. DLC believes that in order for the program to be successful, the program should guarantee savings to participating customers for a meaningful period of time, such as year. This will increase enrollment, help ensure that customers are not harmed financially as a result of their participation, and help increase overall customer satisfaction with the program. DLC also agrees with the Tentative Order that customers should be able to exit the program at any time. The program should be structured to allow customers to move freely to alternative EGS offers and to default service without penalties and switching restrictions.

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[29] Tentative Order, at 28.

[30] Tentative Order, at 29.

DLC agrees with the Commission's recommendation that customers should not be permitted back into the retail opt-in auction program once they return to default service (or move to another EGS service), because the enrollment period is limited and terminated after a set period of time. The Company understands that the Commission has recommended a limited time period (*e.g.*, 30 days) in which customers are eligible to enroll in the retail opt-in auction program. Therefore, once the enrollment period closes, all residential customers, whether returning default service customers or EGS customers, would not be permitted to enter the retail opt-in auction program. DLC notes that the Commission's proposed switching restrictions – with a limited enrollment period and inability of customers to return to the retail opt-in auction price – are fundamentally different than the EDC's default service, which does not have such customer switching limitations. DLC assumes that the Commission is recommending these customer switching restrictions on the opt-in product in an effort to mitigate migration risk for the benefit of EGSs. DLC is willing to accept the Commission's recommendations in this area, but parties should recognize that the prices obtained in the retail opt-in auction would not be directly comparable with prices obtained for EDC default service, since the products are different.

5. Timing

In the Tentative Order, the Commission makes several recommendations with respect to timing. First, the Commission recommends that the actual start of service under these programs should <u>occur on, or after, June 2013</u> so as not to tamper with current default service supply contracts and plans.[31] Second, the Commission suggests

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[31] Tentative Order, at 31.

that, to avoid customer confusion and frustration, the enrollment period should occur as closely as possible to the actual service start date.[32] DLC agrees with the Tentative Order that the actual start of service under these programs should occur on, or soon after, June 2013, and that customers should be allowed to enroll in the program and receive service under the program as soon as possible after they choose to enroll.

Third, the Commission notes that it is inclined to have a short enrollment period of no longer than a month, in order to begin service to the participating customer as soon after enrollment as is possible.[33] DLC supports the concept of beginning service to participating customers as soon after enrollment as is possible, and DLC believes that once a residential customer enrolls in the program he or she should begin service according to the same protocols and procedures as any customer switching to an EGS. DLC has not yet determined the exact length of its proposed enrollment period, but it is willing to accept the Commission's recommendation to limit the enrollment period to an appropriate period of time that allows customers sufficient time to enroll while limiting the exposure of the EGS holding its offer open during the enrollment period. During the enrollment period, DLC would allow residential customers to enroll in the program on a first-come, first serve basis up to the prescribed customer participation cap.

Fourth, the Commission notes that success of the retail opt-in auction depends on customers knowing the precise price or discount off the POLR price of the product at the time they are asked to enroll.[34] As such, the Commission is inclined to prefer that the retail auction occur first, followed by customer enrollments. This will allow the potential

[32] Tentative Order, at 31.

[33] Tentative Order, at 31.

[34] Tentative Order, at 32.

enrollees to know the exact price (or discount) they will be asked to pay. DLC also agrees with this recommended approach in the Tentative Order. DLC expects that its proposal will include a plan to begin enrolling customers soon after the initial savings are established by the winning EGSs in the retail auction.

6. Customer Participation Caps

The Commission states in the Tentative Order that it would like to maximize the customer participation in the opt-in auctions as to provide as much savings to as many customers as possible. However, it believes a customer participation cap is needed as an appropriate and useful mechanism for providing transparency to wholesale suppliers, aiding them in making informed bids for default service. Therefore, the Commission proposes a cap of 50% of an EDC's default service customer base. The Commission recommends that the cap should be set at a date before the auction begins, in order to provide participating EGSs with an indication of the potential number of customer participants. The Commission also makes clear in the Tentative Order that it envisions these retail auction pools to be a one-time event and, as such, it does not foresee follow-up auction pools.[35]

DLC supports the use of a residential customer participation cap. A customer participation cap is necessary in order to mitigate any "risk premiums" in wholesale solicitation bids due to the unidentified risk of potential significant customer switching following implementation of the retail opt-in auction program. without defined limits DLC also supports the recommendation that the cap be established prior to both the wholesale solicitation for default service and the EGS retail auction, so that both

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[35] Tentative Order, at 33-34.

wholesale suppliers bidding on default service and EGSs bidding in the retail opt-in program have greater certainty about the potential size of the program.

DLC does have some concerns about the magnitude of the customer participation cap and the potential level of uncertainty surrounding actual customer enrollment in the program. The Commission's proposal for a prescribed cap of 50% of an EDC's default service customer base is ambiguous. This cap could be interpreted to suggest that only 50% of an EDC's default service customer base would receive mailings regarding the program with a lower percentage of customers actually enrolling in the program. Alternatively, it could be interpreted to suggest that all (or 100% of) residential EDC customers would receive information about the program and enrollment would be limited to the customer participation cap (*e.g.*, 50%). Further, it is not clear in the Tentative Order whether the 50% cap is in addition to the current level of shopping that exists in an EDCs service area or the cap would include current residential customers that are shopping. These distinctions are important with potentially different outcomes. DLC would like to establish a structure that encourages a certain number of residential customers who are not currently shopping to participate in the retail opt-in auction program on a first-come, first-served basis. To the extent possible, DLC seeks to reduce the overall level of uncertainty about the level of customer participation in the program. Reducing the level of uncertainty will reduce risk premiums in both the default service and retail auction solicitations, benefitting both default service customers as well as participating retail auction customers. To encourage customer participation (and to increase the likelihood of enrolling/"maxing out" the customer participation cap), the program would guarantee savings relative to the default service rate. This would also satisfy the Commission's goal of providing greater certainty to wholesale bidders for default service and EGS bidders that bid in the retail auction process, and reduce the premiums associated with serving load on default service and in the retail opt-in auction. Further, while DLC has not yet determined the details of such an opt-in auction program (including the customer participation cap), DLC is concerned that allowing actual customer enrollment in the program to range anywhere from 0% to 50% of the EDC customer base will create too much uncertainty for wholesale and EGS bidders and result in unnecessary premiums in their bids. DLC also believes it is important that the Commission recognize the different stages of retail market development and different levels of shopping that already exists among Pennsylvania EDCs. Given that, the Commission should be careful not to prescribe a specific participation cap level or methodology that could result in high levels of uncertainty that would substantially increase default service and EGS supplier risk premiums. In an effort to provide further guidance to the Commission, however, DLC currently recommends that the percentage customer participation cap on customers electing to be served by an EGS via the retail opt-in auction should be no more than 50% of the EDC's residential customers less the percentage of residential customers already shopping in the EDCs service area. Achieving 50% shopping among residential customers would be a significant accomplishment.[36] DLC believes that each EDC should define the scope of the program appropriately in advance of the default service RFP and the EGS retail auction so as to reduce uncertainty and bidder risk premiums.

[36] Reaching this cap would result in much higher levels of residential shopping than utilities in New York. Meanwhile, incremental shopping above the 50% level could be promoted through the Commission's recommended customer referral programs.

DLC also supports the Commission's clarification in the Tentative Order that it envisions that these retail auction pools to be a one-time event and, as such, it does not foresee follow-up auction pools.[37] This should provide wholesale bidders interested in supplying default service with more certainty regarding future actions and avoid unnecessary premiums in their bids.

7. Supplier Participation Load Caps

In the Tentative Order, the Commission recommends imposing an EGS participation cap of 50% of the customer class default service accounts to ensure more than one winning EGS supplier in the retail auction. The Commission also recommends the use of a tranche structure, similar to the structure used in wholesale default service auctions, to help support participation from a diversity of EGSs so that smaller EGSs could bid on a portion of the eligible customer accounts (*e.g.*, 10% of participating default service customer accounts).[38]

DLC agrees with these recommendations and plans to include a supplier participation cap and a tranche structure in its proposal.

8. Composition of Customer Offer – Product

In the Tentative Order, the Commission states that the product structure for the retail opt-in auction does not need to be uniform statewide. The Commission does, however, propose two possible product models:

1. *Fixed Rate Product with a Bonus*: The fixed rate will provide certainty to both EGSs and customers. While the possibility exists that the fixed rate could

[37] Tentative Order, at 34.

[38] Tentative Order, at 35.

eventually exceed the default service rate at some point, the customer will have received a bonus of $50-100 to ameliorate this concern.

2. *Percent-Off Rate, No Bonus*: The rate will be set at a certain percentage off the EDC default service rate. This will provide customers with the certainty that they will never be paying more than the EDC's default service rate.[39]

The percent-off rate, no bonus would probably be easier for the customer to understand and potentially more attractive as the percent-off rate would be in a similar format to the customer standard offer so it would be easier to transition customer referrals from the retail opt-in to the standard offer. But DLC agrees with the proposed product models included in the Tentative Order and plans to include one of these product approaches in its proposal.

9. Customer Options Upon Program Expiration

In the Tentative Order, the Commission states that program participants should be treated no differently than any other shopping customer when the program ends, and that the Commission's renewal notice guidelines should be fully applied.[40] These guidelines state that each customer will get two notices; an initial notice 52-90 days before the end of the program followed by a more detailed "options notice" at least 45 days before the program ends. The options notice, per the guidelines, must provide detailed information as to the new terms and conditions, including the price (which can be variable or fixed), information on their other options (including shopping for a new supplier and a referral to PAPowerSwitch.com and www.oca.state.pa.us) and a date by when the customer must act. Additionally, per the guidelines, if the customer does not affirmatively respond to the notices, the supplier can impose new terms and conditions, as long as the new product

[39] Tentative Order, at 38.

[40] Tentative Order, at 40.

is a month-to-month product with no early termination fee. The Commission notes that there is no requirement for an EGS to continue service with a customer after the program ends. Such an EGS would still need to provide customers with the standard two notices informing them that they may not be receiving service from that EGS beyond a certain date and providing them with their options.

DLC has some concerns with the Commission's recommendation regarding what happens to customers upon program expiration. In particular, DLC is concerned that if a customer fails to understand, pay attention, or act upon the EGS notices and take any action at the end of the program, the customer could automatically be enrolled in a month-to-month rate that is potentially higher than the default service rate, more volatile, and not subject to any regulatory oversight. DLC previously suggested in its filed comments on the Commission En Banc Hearing dated November 23, 2011 (at 12) that at the end of the offer period:

1. EGSs could have the option to continue its discounted price offer and customers could remain with the EGS at the current pricing arrangement. In this case, if the customer took no action by the end of program expiration, the customer would remain with the EGS.
2. Alternatively, the EGS could choose to no longer continue its price offer, in which case the customer could choose another EGS, choose to stay with its current EGS under different price terms and conditions, or choose to return to default service. In this case, if the customer took no action by the end of program expiration, the customer would return to EDC default service.

This would ensure that in no instance would customers be charged more than the EDC default service rate <u>without</u> their affirmative consent. DLC believes that this type of program would further promote customer enrollment in the program and alleviate customer concerns about the need for future customer action to avoid paying unregulated rates that are higher than regulated default service rates in the future. In effect, such a program would ensure no harm to customers and would likely increase overall customer participation in the program relative to a program that allowed EGSs to later charge rates above EDC default service rates without any affirmative customer action.

However, DLC is willing to accept the Commission's recommendation that customers remain with the EGS upon program expiration with the following caveats. First, DLC believes that for the renewal period after program expiration the rates should change no more frequently than quarterly, rather than month to month changes, for a one year period. This provides some limited rate stability to customers. Second, DLC recommends that EGSs be required to clarify the customer options upon the expiration of the retail opt-in auction program or the standard offer customer referral program so customers are aware that they will remain with the EGS on a product with changes no more frequently than quarterly absent any action, or they can affirmatively elect to remain with the EGS under a new contract, switch to another EGS, or return to the EDC's default service rate. DLC believes that customers should be notified that they have a right to either elect fixed price service offered by the EGS (if the EGS chooses to make such an option available) or can elect to return to the EDC's default service without any customer switching restrictions.

10. Opt-in Auction Structure

In its Tentative Order, the Commission remarks that there does not appear to be strong arguments to support choosing a sealed bid process versus a descending clock auction, and as a result, does prescribe a particular approach. The Commission notes that customers should be randomly assigned to the winning bidders on the basis of accounts.[41]

DLC supports the positions taken in the Tentative Order regarding opt-in auction structure. As the Commission notes in the Tentative Order, there was general agreement by all parties that a sealed bid process would be less expensive and easier to implement than a descending clock auction. DLC currently plans to implement a sealed bid approach.

The PUC has suggested that customers be randomly assigned to suppliers. This raises a concern for DLC as to whether the customer has made an affirmative selection of a supplier as required by the Public Utility Code. Random assignment could cause other problems when the customer eventually learns the identity of any "assigned" supplier. It would appear to Duquesne that the customer would need to elect their supplier to avoid this issue. An alternative would be to require the randomly assigned supplier to contact the customer and arrange to confirm the service and confirm the enrollment with the customer. This would resolve issues concerning the contractual arrangements that would be required between the participating supplier and the customer.

F. Default Service Price to Compare on Bills

DLC agrees that the Price-to-Compare ("PTC") should be included on customer bills. It provides important information to the customer. It also is beneficial for handling calls to the EDC call center. The proposed resolution to also add a statement that the PTC is subject to change is acceptable. Also, an explanation of the frequency of major

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[41] Tentative Order, at 41.

changes would be acceptable. Finally, if EDC bill space permits, DLC agrees it is acceptable to refer to the PaPower Switch website.

Concerning the specific information proposals by the Commission, DLC does have comments on the specific information to be placed on monthly customer bills.

1. DLC does not have any customer-specific PTCs. It only has average PTCs for residential, lighting, small C & I, and medium C & I customer classes. (We do not provide a large C&I PTC since these customers only have an hourly priced default service.) DLC believes an average PTC is appropriate and that requiring a customer-specific PTC would be too burdensome. We currently have a statement on the bill that states, "Your actual Price to Compare may differ based on your specific demand and usage patterns."

2. DLC can agree to place a statement of when the PTC will be in effect, that it is adjusted, and an explanation about how often it is adjusted.

3. DLC also agrees to include a reference to PAPowerSwitch as a source for more information.

4. It is our understanding that PAPower Switch does not have C&I PTCs on it. So for those customers, a reference to the PAPowerSwitch would be confusing since there is not helpful information to them listed. (The PUC mentions in its Order of its intention to include information for small business customers.

G. Coordination between EDCs and EGSs

1. EDC Supplier Charges

DLC is unaware that it has any supplier charge issues with any EGSs.

2. Sample Bills

DLC has sample bills on its supplier website. It does not provide, however, actual customer bills to others without the consent of the customer. Once consent is granted, DLC will share customer bills with the designated entities. Our existing Letter of Authorization used by DLC would need to be clarified to make it clear to customers the nature and extent of any disclosure of any customer's entire bills.

3. Creditworthiness standards

a) **Credit Instruments** – DLC would agree with the following credit instruments to be used: Irrevocable Letter of Credit, cash deposit, parental Guarantee. DLC does not recommend surety bonds due to the default concerns of the Surety.

b) **Nature of the Risk** – Below are risks incurred by the EDC for which credit provisions should be applicable:

1. <u>Meter Correction – Wholesale.</u> DLC does residual billing beyond what PJM performs; i.e., DLC allocates on a pro rata share to all LSEs the residual dollars that PJM bills to the DLC main account. These numbers are not usually that large, but can be large if there was a large meter correction at one of the generating stations or tie lines in the DLC Zone, which has occurred from time to time in the past.
2. <u>Meter Correction – Retail</u>. The second risk would be if there was a customer meter correction outside of the normal PJM reconciliation window and process. This billing is done through PJM only if all the LSEs sign off on the dollars credit/charge.

3. Gross Receipts Tax. If the EGS fails to pay the Gross Receipts Tax (GRT) to the EDC, then the GRT will be billed to the EDC and it will be up to the EDC to recover this money. See DLC's EGS tariff section below.

For these reasons, DLC would need to continue to be permitted to receive some form of collateral from non-credit worthy EGSs. It would be possible to establish some calculation that attempts to approximate this risk based on projected MWs to be served to calculate the GRT risk and some other generic amount to cover the residual billing and meter correction issues based on historical events. In response to the Commission's question, DLC does not have a preference on whether this issue is addressed in this proceeding or in a separate proceeding. However, it is an issue that needs to be addressed to provide adequate assurance of protection for all participants, including customers.

H. Concluding Remarks

DLC supports the evaluation of the state of retail markets in Pennsylvania and can agree for the most part to the over arching concepts raised in this order. Since the completion of its transition period for most customers in 2002, DLC has been able, with the assistance of the Commission, many market participants, consumer advocates, and other interested parties, to make significant improvements in customer access to the retail market while at the same time maintaining fair and reasonable rates for default service customers. DLC has continued to modify its default service model over time and found ways to advance competition as the service requirements and markets for the different customer classes have evolved. As a result, DLC has achieved high levels of customer shopping in its service area --- specifically it is 9^{th} in the country in terms of the level of load shopping in the United States. The DLC looks forward to working with stakeholders to continue its efforts to promote retail competition in a manner that balances the interests of customers, EGSs, and EDC stakeholders.

Respectfully Submitted,

Duquesne Light Company

January 17, 2012

GARY A. JACK
4123931541
DUQUESNE LIGHT
411 SEVENTH AVENUE, MAIL DROP
PITTSBURGH PA 15219

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ROSEMARY CHIAVETTA, SECRETARY
000-000-0000
PA PUBLIC UTILITY COMMISSION
2ND FLOOR
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET
HARRISBURG PA 17120

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